

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

ROGIERO MONTEMAYOR
Plaintiff,

VS.

**US BOS EXPEDITE LLC AND
ISMET SADIKOVIC**
Defendants.

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CIVIL ACTION NO:

JURY

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, US BOS EXPEDITE LLC and ISMET SADIKOVIC, Defendants herein, and file this Notice of Removal and in support thereof, would respectfully show unto the Court as follows:

I. CASE BACKGROUND

1. US BOS EXPEDITE LLC and ISMET SADIKOVIC are Defendants in a civil action brought against them in the 111th Judicial District Court of Webb County, Texas styled: *Rogiero Montemayor v. USS Bos Expedite LLC and Ismet Sadikovic*, Cause No. 2017CVA002153D2 (hereinafter referred to as “the state court action”). Rogiero Montemayor is the only Plaintiff in the state court action. US BOS EXPEDITE LLC and ISMET SADIKOVIC are the only Defendants in the state court action. This is a negligence case concerning personal injuries to Plaintiff, Rogiero Montemayor, as well as property damage. According to Plaintiff’s allegations, on June 5, 2017, Rogiero Montemayor was driving a 2004 BMW 530 and was traveling southbound on the 5900th block of Bernardino Avenue in Webb County, Laredo, Texas. Plaintiff alleges that Defendant Ismet

Sadikovic, while in the course and scope of his employment for US BOS EXPEDITE LLC, was driving his employer's 2016 Freightliner Tractor Trailer ahead of plaintiff when he made an improper right turn from the outside lane colliding with Mr. Montemayor's vehicle. Plaintiff further alleges that he was seriously injured during the collision. Plaintiff has alleged negligence against Ismet Sadikovic, and negligence, *respondeat superior*, and negligent hiring against USS BOS EXPEDITE LLC.

II. BASIS OF REMOVAL-DIVERSITY OF CITIZENSHIP

2. Defendants file this notice of removal pursuant to this honorable court's jurisdiction under the provisions of 28 U.S.C. § 1332. Defendants would show that there is complete diversity of citizenship of the parties as required by 28 U.S.C. §§ 1332 and 1441. Defendants would show that there is now and was at the time this action commenced a diversity of citizenship between Defendants and Plaintiffs. Further, no Defendant is, or was at the time suit was commenced, a citizen of the State of Texas.

III. CITIZENSHIP OF THE PARTIES

Plaintiff, Rogiero Montemayor, is a resident of Texas.

3. As alleged in Plaintiff's state court Petition, US BOS EXPEDITE, LLC, is now and was at the time of the commencement of this action a foreign corporation. US BOS EXPEDITE, LLC, is incorporated in the state of Kentucky with its headquarters and principal place of business currently, and at the time of the commencement of this action, located in Louisville, Kentucky.

4. ISMET SADIKOVIC is now and was at the time this action commenced a citizen of the state of Kentucky as alleged in Plaintiff's state court Petition. ISMET SADIKOVIC is not a resident of any other state.

IV. AMOUNT IN CONTROVERSY

5. Defendant would further show that the amount in controversy in this case, excluding costs and interest, is more than \$75,000 and is well within the jurisdictional limits of this court. 28 U.S.C. § 1332 (a). Defendant would show that this case has been brought for the recovery of monetary damages for personal injuries to Plaintiff, Rogiero Montemayor and property damage in an amount over \$200,000, but not more than \$1 million.¹

V. REMOVAL IS TIMELY

6. Defendant would show that this removal is timely and that it has been filed within thirty (30) days of the date when the cause became removable and within one year after the commencement of this action. 28 U.S.C. § 1446(b). Plaintiff's Original Petition was filed on September 6, 2017. US BOS EXPEDITE LLC was served with citation on October 17, 2017, through the Texas Secretary of State. Defendant would show that it has removed this case within thirty days of service of citation.

VI. JOINDER OF DEFENDANTS

7. Defendants would show that the only Defendants in this case are US BOS EXPEDITE LLC and ISMET SADIKOVIC. As such, all Defendants have joined in and are in agreement with said removal.

VII. DENIAL OF LIABILITY

8. Defendants deny any liability on their part and dispute the claims of the Plaintiff and state that he has valid defenses to those claims.

VIII. STATE COURT FILE

9. In accordance with 28 U.S.C. § 1446 (a), and local rule LR81 of the Local Rules for the

¹ See Paragraph 10 of the true and correct copy of Plaintiff's Original Petition attached hereto and incorporated herein.

Southern District of Texas, a copy of all process, pleadings, and orders in the state court action are being filed along with this Notice of Removal.

IX. NOTICE TO COURT AND PARTIES

10. In accordance with 28 U.S.C. § 1446 (d), written notice of the filing of this Notice of Removal will promptly be given to all parties and to the district clerk for the 111th Judicial District Court of Webb County, Texas.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that this action be removed to this court and that this court accept jurisdiction of this action and place this action on the docket of this court for further proceedings, the same as though this action had originally been instituted in this court.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANTS,
US BOS EXPEDITE LLC AND ISMET SADIKOVIC**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded to all counsel of record by United States mail, postage prepaid, on this the 16th day of November, 2017.



THOMAS L. COUGILL